

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2209 of 2000

Hon'ble MR.JUSTICE Y.B.BHATT

=====

1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

PATEL PURSHOTTAMLAL RATILAL

Appearance:

MS SIDDHI TALATI for appellant

MR JV JAPEE for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 28/09/2000

ORAL JUDGEMENT

1. This is an appeal under section 54 of the Land Acquisition Act read with section 96 of CPC at the instance of the State of Gujarat, challenging the judgement and award of the Reference Court passed under section 18 of the said Act. The acquisition pertains to the Guhai Irrigation Project under section 4 Notification

dated 3rd September 1987. The Reference Court, after appreciating the evidence on record, determined the market value of the irrigated lands at Rs.925/- per Are. It is this judgement and award which is challenged by the State of Gujarat in the present appeal.

2. The only contention raised in the present appeal is that the Reference Court was in error in applying the valuation determined by previous awards and in relying upon the same. These previous awards are at Exhs.14, 15 and 23 on record of the present case.

3. Each of these three awards pertain to the acquisition of lands for the very same project viz. Guhai Jalagar Project. Exh.14 pertains to land situated in village Parbada, Exh.15 pertains to acquisition of lands from the village Panpur (Savgadh), whereas Exh.23 pertains to the acquisition of lands from the village Illol. It is also pertinent to note that the evidence on record establishes that all three villages are contiguous to each other and/or share a common boundary. Thus, there is no significant difference in the fertility between the lands acquired and dealt with by Exhs.14, 15 and 23.

4. On the other hand it was contended that the present acquisition is from the lands of village Navanagar and this village is at a distance of 7 to 10 kilometers from the aforesaid three villages. However, this distance by itself and without reference to other factors would not make any substantial difference in the fertility of the soil and consequently would not result in a significantly different valuation of market value. Moreover, there is oral evidence on record in the present case through the claimants that the fertility of the instant village Navanagar is the same as the fertility of the villages concerned in the aforesaid three awards viz. Parbada, Panpur (Savgadh) and Illol. As against this, the defendants have led absolutely no evidence whatsoever even to suggest that the fertility of the lands of the instant village Navanagar is in any way different, let alone evidence as to why it is different and to what extent it is different.

5. It is, therefore, obvious that the reliance placed upon the aforesaid three awards at Exhs.14, 15 and 23 by the Reference Court is justified and no exception can be taken in this regard.

6. Once it is found that the aforesaid three awards are reliable and constitute a legally permissible guideline for the purpose of valuation of the instant

lands, the consequential treatment by the Reference Court is once again eminently reasonable and sustainable. Exh.14 determines the market value at Rs.1025/- per Are, the notification under section 4 being dated 18th August 1988. Exh.15 determines the land value at Rs.1025/- per Area for non-irrigated land and Rs.1075/- per Area for irrigated land, the relevant notification under section 4 being dated 10th March 1988. Exh.23 determines the market value of the lands for non-irrigated lands at Rs.1025/- per Area, the relevant notification under section 4 being dated 13th October 1988.

7. The Reference Court has given due regard to the fact that the aforesaid three awards pertain to and arise from notification under section 4 of the Act which are subsequent in point of time by about 6 to 12 months. The notification in the instant case is dated 3rd September 1987. Giving due regard to this fact the Reference Court has discounted the market value determined by the three awards by about 10 per cent and has thereby arrived at a figure of Rs.925/- per Are.

8. To my mind, this is an eminently reasonable and sustainable method of appreciating the evidence on record and does not confer any reasonable cause to interfere with the impugned judgement and award by way of the present appeal. This appeal is, therefore, summarily dismissed.

9. It is expected that the appellant will deposit the amount of compensation as per the Award in the Reference Court within three months from today.

ar